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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,161	04/16/2004	Shyang Fong Chung	CHUN3077/EM	7848
23364	7590	01/07/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			LACYK, JOHN P	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/825,161	Applicant(s) CHUNG ET AL.	
	Examiner John P Lacyk	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Art Unit: 3736

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barak et al in view of Shumiyashu.

Barak et al discloses a portable therapeutic device for treating deep vein thrombosis (DVT) having a plurality of air passages (see abstract; column 4, lines 25-27), each connected to a control unit (3) that contains a pump means for inflation and deflation and associated electronics to control the device and hoses (4) connected at openings (6) to connect the plurality of air passages to the pump means. The air passages are parallel to each other (Figure 2). The device is controlled by a control unit (3) that operates valves (66 and 61) to inflate and deflate the air passages. While Barak et al shows (Figure 5) the device having a pressure between 20-300mmHg and a power source of 6V, these are also considered to have been obvious since it is not a patentable distinction to discover the optimum or workable ranges by routine experimentation where the general conditions of a claim are disclosed. Further while Barak et al does not disclose the specific circuitry used, the use of amplifiers and switches, etc. are well known in the art of electronic controllers and would be inherent in order to allow for proper use of the device. Barak et al discloses the claimed device except for the use of magnets.

Further it is known in the art of DVT therapy that a device, as shown above, is used to assist in blood circulation to prevent clotting of the venous blood. Shumiyashu teaches that it is well known to use magnets applied to the body to improve blood circulation (column 1, lines 9-15). Therefore a modification of Barak et al to includes a plurality of magnets would have been obvious since it is prima facie obvious to combine two devices each of which is taught by the prior art to be useful for the same purpose in order to form a third device used for the very same purpose. The idea of combining them flows logically from their having been individually taught in the prior art.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barak et al in view of Shumiyashu as applied to claim 1 above, and further in view of Morris et al. Barak et al teaches the claimed device except for specifically using a non-elastic outer layer. Morris et al teaches a similar device that uses a portable device having an air cushion to treat DVT and shows (column 2, lines 15-27) that "A generally inelastic member is preferably used to fully enclose the bladder". Therefore a modification of Barak et al to include a non-elastic outer layer would have been obvious in view of the teachings of Morris et al. With respect to the specific width of the air passages and distance between magnets, as discussed above, to find the optimum or workable ranges is an obvious expedient to one skilled in the art.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lin is cited to further show the use of magnetic stimulation to

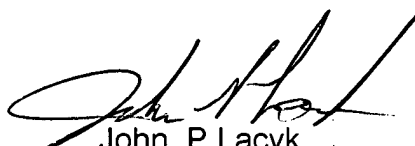
Art Unit: 3736

treat deep vein thrombosis and particularly teaches using a magnetic field strength of .5-10 T.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P Lacyk whose telephone number is 571-272-4728. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Lacyk
Primary Examiner
Art Unit 3736

J.P. Lacyk